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October 18, 2002

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OCT 18 2002

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Federal Communication Commission
Bureau of Office of Secretary

**Re: Ex Parte Presentation in the Matter of Review of CC Docket No. 01-338,
Review of the Section 251 Unbundling Obligations of Incumbent Local
Exchange Carriers; and CC Docket No. 96-98, Implementation of the Local
Competition Provisions of the Telecommunications Act of 1996**

Dear Ms. Dortch:

On October 16, 2002, Jake Jennings of NewSouth Communications and the undersigned met separately with Christopher Libertelli and with Matthew Brill. On October 17, 2002, Jake Jennings and the undersigned met separately with William Maher and Scott Bergmann, with Dan Gonzalez, with Jordan Goldstein, and with Jonathan Cody. The purpose of these meetings was to discuss the importance of DS1 Unbundled loops and the enhanced extended link. In addition, various policies affecting access to the local loop and transport were discussed, including clarifying the scope of ILEC obligations to attach electronics and undertake other modifications to the network in order to derive DS1 loops; clarifying that collocation should not be required to obtain access to loops and EELs; and eliminating co-mingling and use restrictions. The points discussed were consistent with NewSouth comments in the above-captioned proceeding, and the attached materials.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, this letter is being provided for inclusion in the public record of the above-referenced proceeding.

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Secretary of the Federal Communications Commission
Page 2

This letter transmits for inclusion in the public record one copy of the attached material containing confidential business information and two copies redacted for public inspection.

Very truly yours,



Michael H. Pryor
Counsel to NewSouth Communications

Attachments
MHP:crl

cc (w/out attachments): Christopher Libertelli
Matthew Brill
Daniel Gonzales
Jordan Goldstein
William Maher
Scott Bergmann
Jonathan Cody

- Focus on the business/enterprise market in Southern U.S.
 - ◆ 29 sales offices
- Customer Focus
 - ◆ Facilities-based: Medium to large businesses
 - ◆ UNEp: Smaller, multi-location businesses
- Bundled Services – local voice, data services, long distance, Virtual Private Network (VPN)
- Current annual revenue run rate of *REDACTED*
- 11 of 13 switch markets EBITDA positive
- NewSouth turned EBITDA positive in April 2002

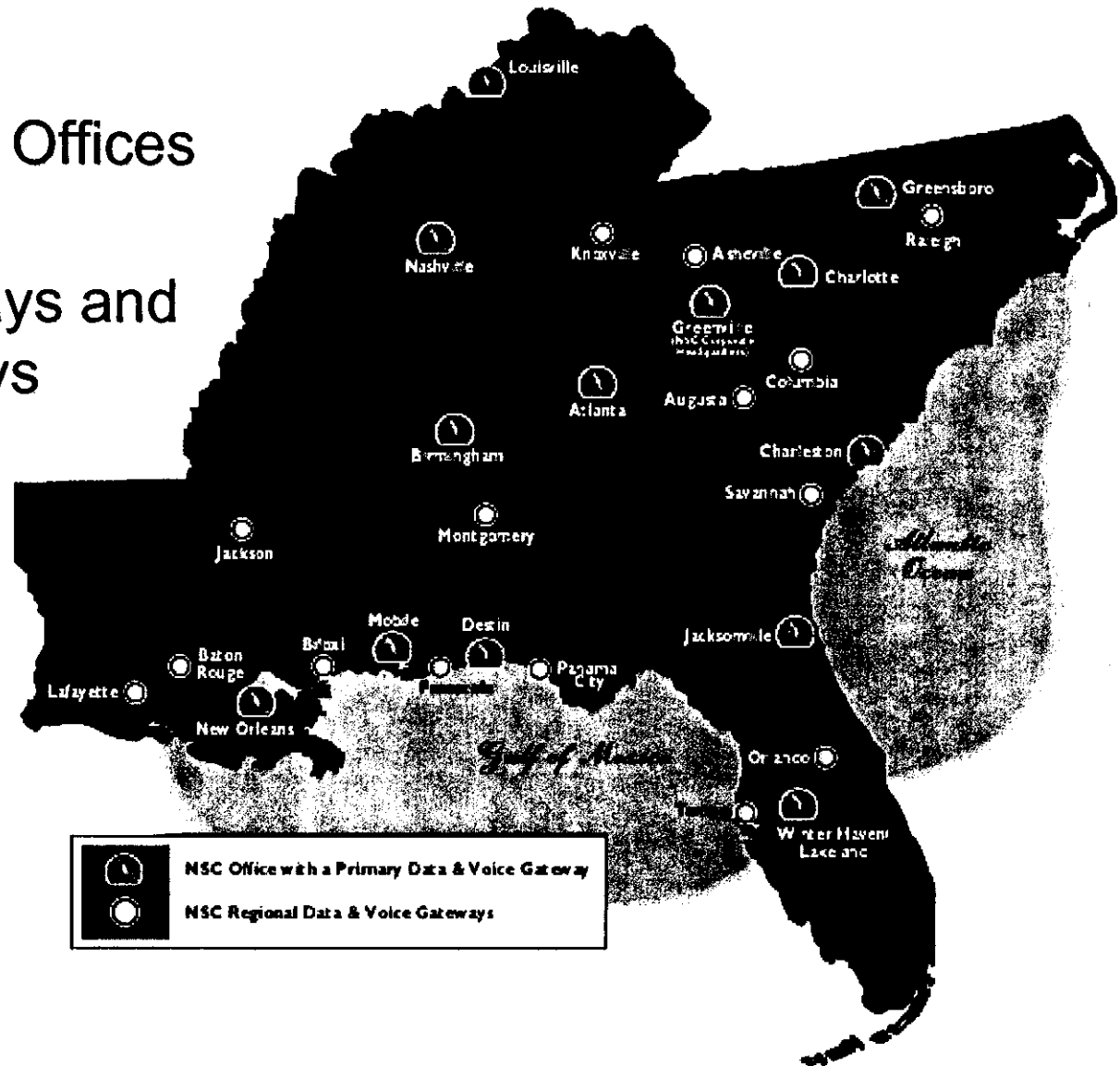
REDACTED PER PROTECTIVE ORDER DOCKET NOS. 01-338, 96-98, 98-147

NewChoice. NewTechnology. NewValue.™

- NSC relies on UNE DS1 loops and EELs
 - UNEp – small business customers
 - Capital Investment of over *REDACTED*
 - Collocation Investment of over *REDACTED*
 - Customer Premise Investment of over *REDACTED*
- 2.90% of NSC customers upgraded from analog service to digital broadband
- NSC investment in "micro-switch" technology.

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- ORIGINAL**
- 29 District Sales Offices
 - 13 Voice gateways and 14 Data gateways
 - 80 End Office Collocations



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Improvement in EBITDA Performance

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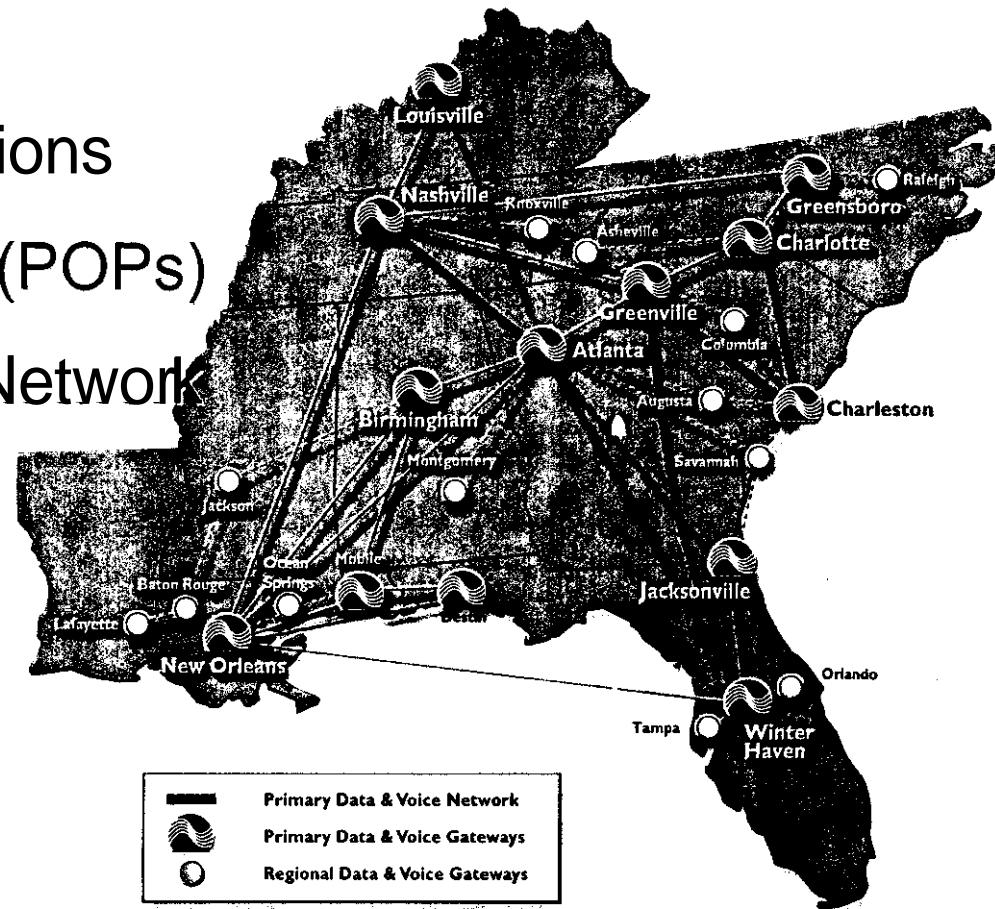
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- Focus on business/enterprise customers
 - Medium to large businesses, focusing on opportunities of greater than 10 lines, with Facilities-based Services
 - Current facilities customer base averages 16.5 lines per customer
 - Small businesses, less than 10 lines, served with UNEp product offering
 - UNEp currently makes up less than 8% of total revenue and 18% of 2002 forecasted access line sales
 - UNEp sales primarily for small business/multi-location opportunities
 - UNEp customer base averages 3.5 lines per customer

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ORIGINAL

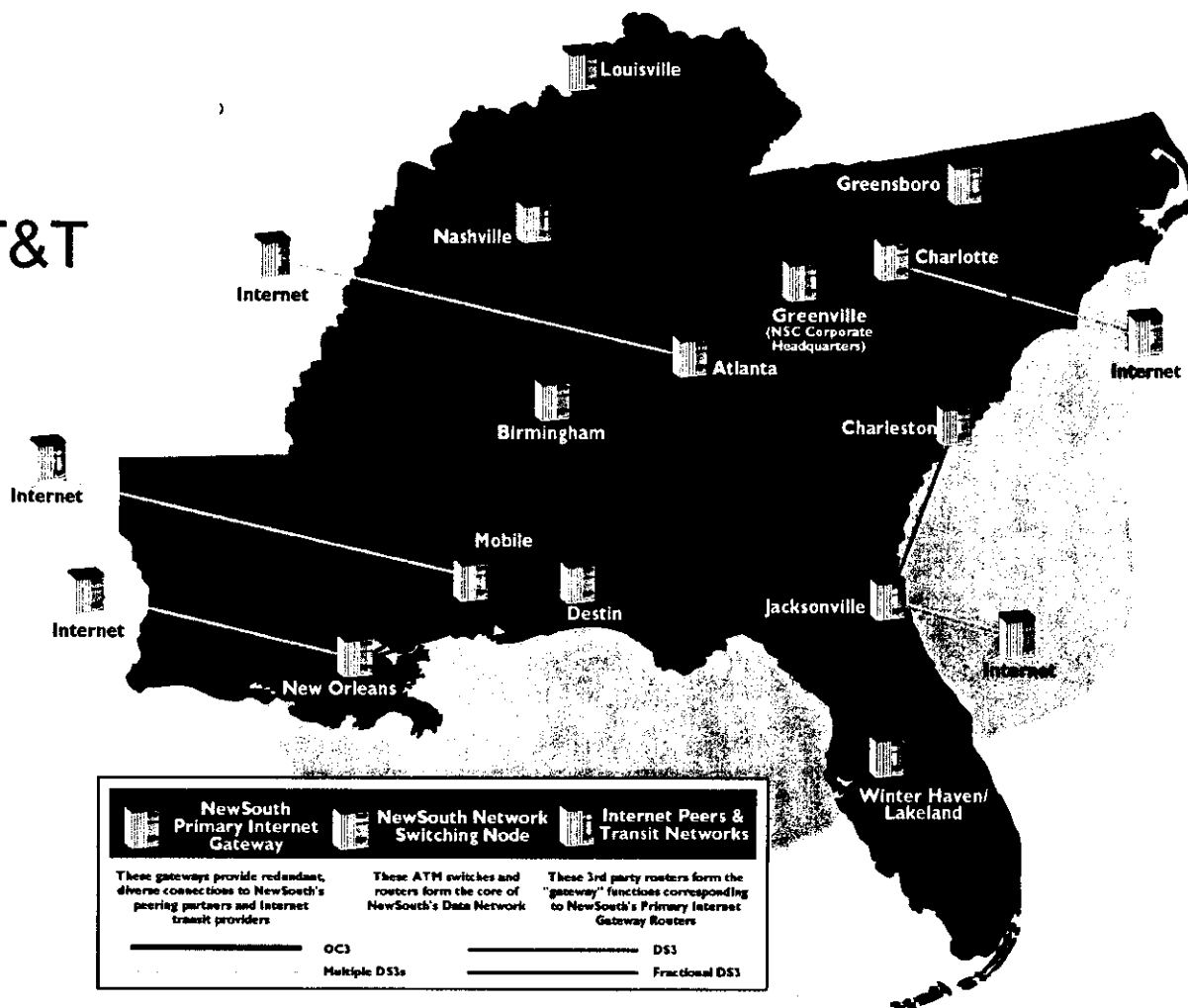
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- Distributed Intelligent Network
- SONET Architecture
 - ◆ Intercity Fiber Leased from Third Parties
- SS7 Network



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➤ 14 State-of-the-Art New World ATM+ IP Data Gateways

➤ Connected to AT&T & UUNET



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➤ DSI loops – no alternative to customer premise

- ◆ BOC claims that CLECs “use their own last mile facilities to serve the vast majority of their business customers” are false:
 - ❖ Of NewSouth’s 8,659 DS1 loops, 0 are self-provisioned and 0 are from third party providers
 - ❖ DS1 customer revenues are insufficient to justify building DS1 loop

➤ EEL – viewed as a distance sensitive loop

- Distinction between “line side” transport component of EEL which connects customers to collocation or POP, and “trunk side” transport from collocation to NewSouth’s switch.
 - ❖ No aggregation on “line side” transport – loop and transport component of EEL are both DS1
 - ❖ Aggregation/Grooming efficiencies available on “trunk side” transport (i.e., DS1 to DS3).
 - ❖ No alternatives on “line side”, few alternatives on “trunk side”

➤ Special Access is not a substitute

- ◆ Materially increases cost (see next slide).
- ◆ Puts CLEC at mercy of ILEC pricing decisions
- ◆ No performance requirements
- ◆ Eviscerates UNE obligations

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Special Access – EEL Comparison

LATA420 Asheville, NC Density Zone 2

| Element | EEL USOCs | EEL Rate | SPA USOCs | SPA 2yr. Rate | SPA 5yr. Rate |
|---------------------------------|--------------|-----------|-----------|---------------|---------------|
| Channel Term (DS1 Loop) | USLXX | \$ 84.36 | TMECS | \$ 126.00 | \$ 123.00 |
| Mileage @ 10 miles | 1L5XX | \$ 5.80 | 1L5XX | \$ 135.00 | \$ 105.00 |
| Interoffice Channel Fixed | U1TF1 | \$ 71.29 | 1L5XX | \$ 75.00 | \$ 70.00 |
| COLO Cross Connects | PE1PG, PE1PI | \$ 3.13 | | | |
| Ring Cross Connect on Muxed DS3 | 1PQE1 | | 1PQE1 | \$ 12.00 | \$ 12.00 |
| Total: | | \$ 164.58 | | \$ 348.00 | \$ 310.00 |
| 28 DS1 Multiplexing; | MQ3 | \$ 226.81 | MQ3CO | \$ 490.00 | \$ 450.00 |
| 24 DSO Multiplexing; | MQ1 | \$ 177.72 | MQ1 | \$ 171.00 | \$ 167.00 |

LATA474 Knoxville, TN Density Zone 2

| Element | EEL USOCs | EEL Rate | SPA USOCs | SPA 2yr. Rate | SPA 5yr. Rate |
|---------------------------------|--------------|-----------|-----------|---------------|---------------|
| Channel Term (DS1 Loop) | USLXX | \$ 75.40 | TMECS | \$ 126.00 | \$ 123.00 |
| Mileage @ 10 miles | 1L5XX | \$ 3.60 | 1L5XX | \$ 135.00 | \$ 105.00 |
| Interoffice Channel Fixed | U1TF1 | \$ 77.86 | 1L5XX | \$ 75.00 | \$ 70.00 |
| COLO Cross Connects | PE1PG, PE1PI | \$ 2.71 | | | |
| Ring Cross Connect on Muxed DS3 | 1PQE1 | | 1PQE1 | \$ 12.00 | \$ 12.00 |
| Total: | | \$ 159.57 | | \$ 348.00 | \$ 310.00 |
| 28 DS1 Multiplexing | MQ3 | \$ 222.98 | MQ3CO | \$ 490.00 | \$ 450.00 |
| 24 DSO Multiplexing | MQ1 | \$ 165.21 | MQ1 | \$ 171.00 | \$ 167.00 |

LATA440 Savannah, GA Density Zone 2

| Element | EEL USOCs | EEL Rate | SPA USOCs | SPA 2yr. Rate | SPA 5yr. Rate |
|---------------------------------|--------------|-----------|-----------|---------------|---------------|
| Channel Term (DS1 Loop) | USLXX | \$ 64.13 | TMECS | \$ 126.00 | \$ 123.00 |
| Mileage @ 10 miles | 1L5XX | \$ 4.50 | 1L5XX | \$ 135.00 | \$ 105.00 |
| InterOffice Channel Fixed | U1TF1 | \$ 78.47 | 1L5XX | \$ 75.00 | \$ 70.00 |
| COLO Cross Connects | PE1PG, PE1PI | \$ 2.33 | | | |
| Ring Cross Connect on Muxed DS3 | 1PQE1 | | 1PQE1 | \$ 12.00 | \$ 12.00 |
| Total: | | \$ 149.43 | | \$ 348.00 | \$ 310.00 |
| 28 DS1 Multiplexing | MQ3 | \$ 182.04 | MQ3CO | \$ 490.00 | \$ 450.00 |
| 24 DSO Multiplexing; | MQ1 | \$ 126.22 | MQ1 | \$ 171.00 | \$ 167.00 |

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➤ Access to UNEs without collocation

- ◆ Existing rules require any technically feasible method of accessing UNEs – collocation is not sole method.
- ◆ Technically feasible to cross-connect loops/EELs to transport at a CLEC POP in an ILEC CO (i.e., channel facility assignment on cross-connect block).
- ◆ Collocation imposes unnecessary costs (e.g., \$500,000 for first three years of collocation).

➤ Lack of Facilities

- ◆ ILECs should be required to attach electronics and undertake cabling modifications needed to derive DS1 loop.

➤ Eliminate Comingling Ban

- ◆ CLECs must be able to connect UNEs to other UNEs, to special access, to third party providers, or to self-provisional elements.

➤ Eliminate Use Restrictions

- ◆ As long as impairment is shown, the **1996** Act does not permit restrictions on the use of the UNE.
- ◆ No restrictions on new combinations.

➤ Stand Alone Loop Conversions

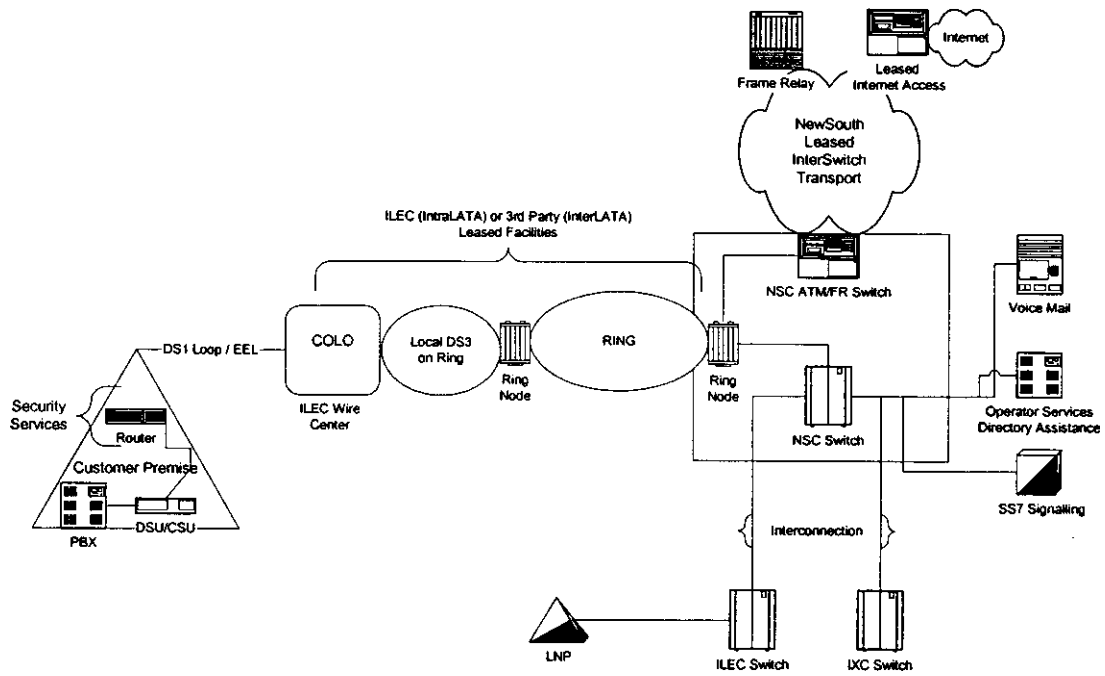
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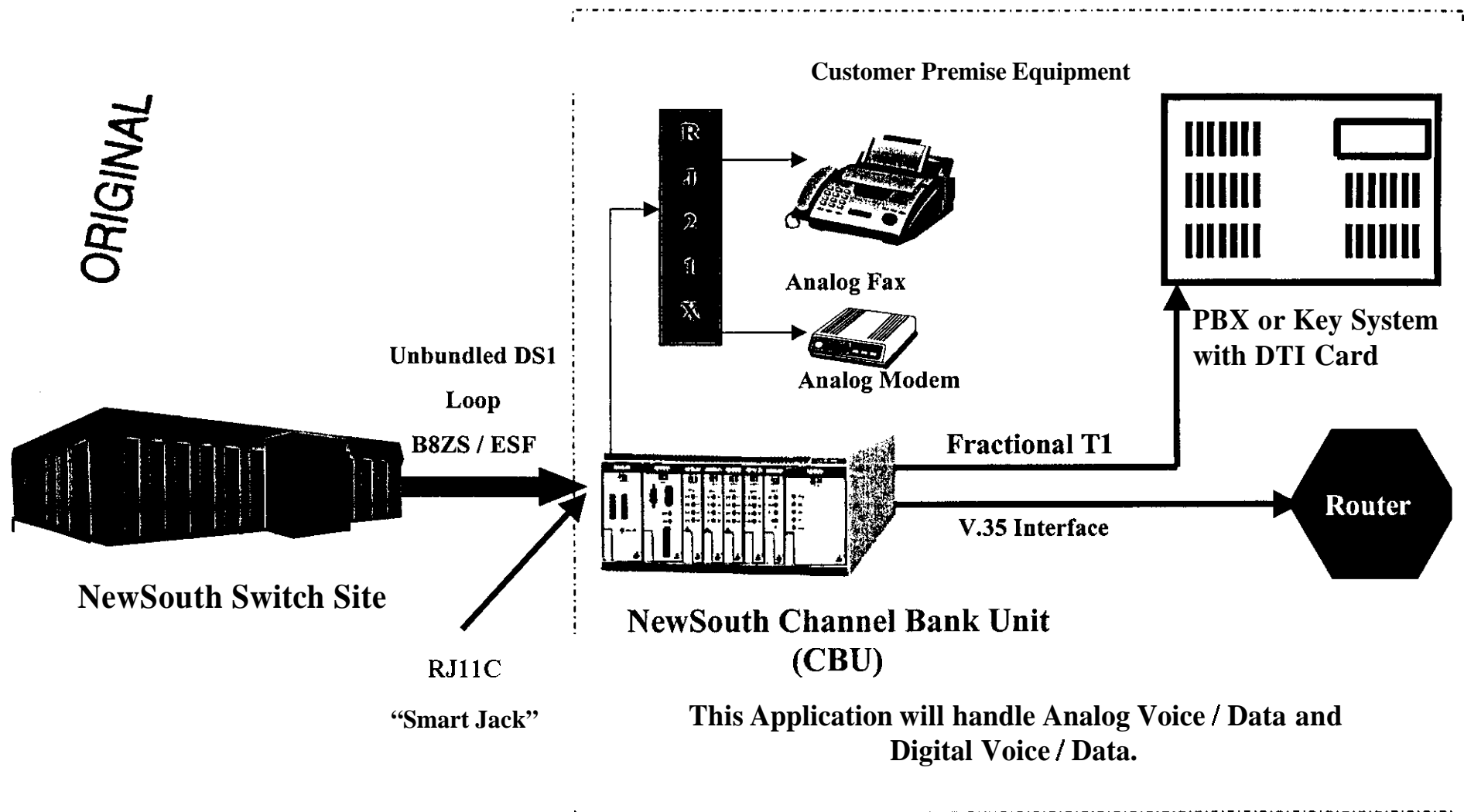
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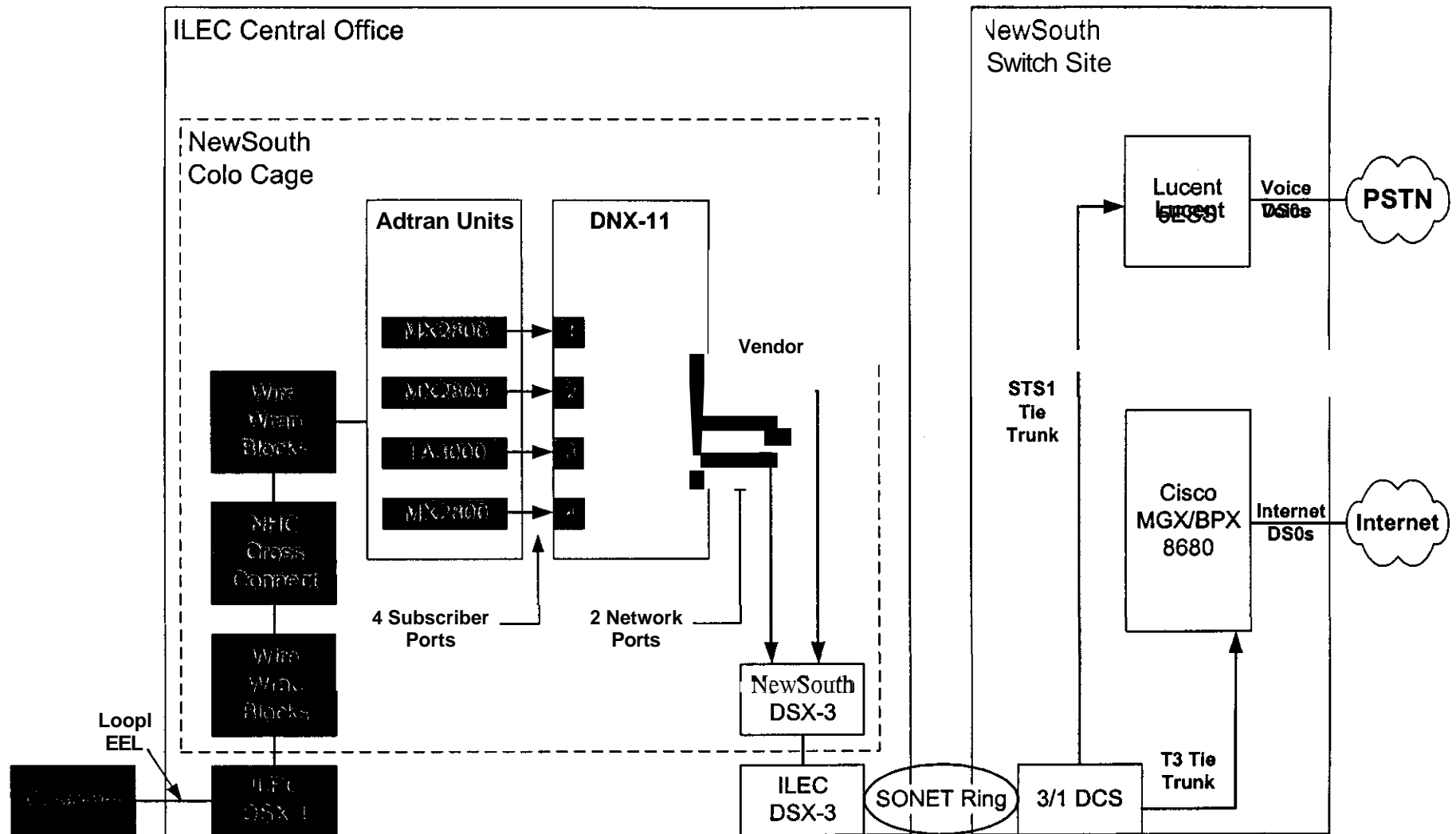
NewSouth Network Elements & Architecture (Local Loop to Collocation)



Customer Premise Equipment



NewSouth Collocated Equipment



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Triennial Review

October 2002

Redacted per Protective Order Docket Nos. 01-338, 96-98, 98-147

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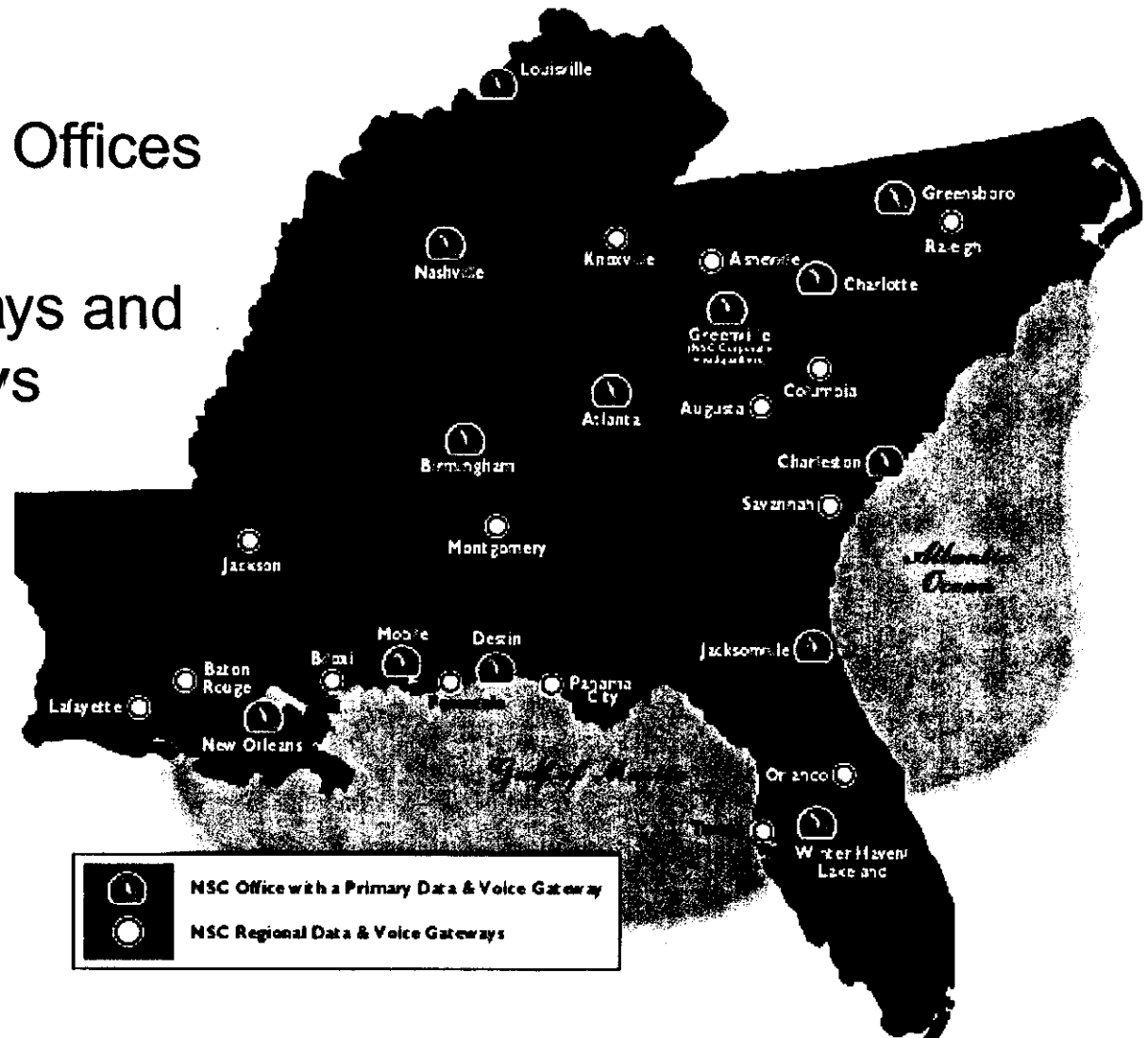
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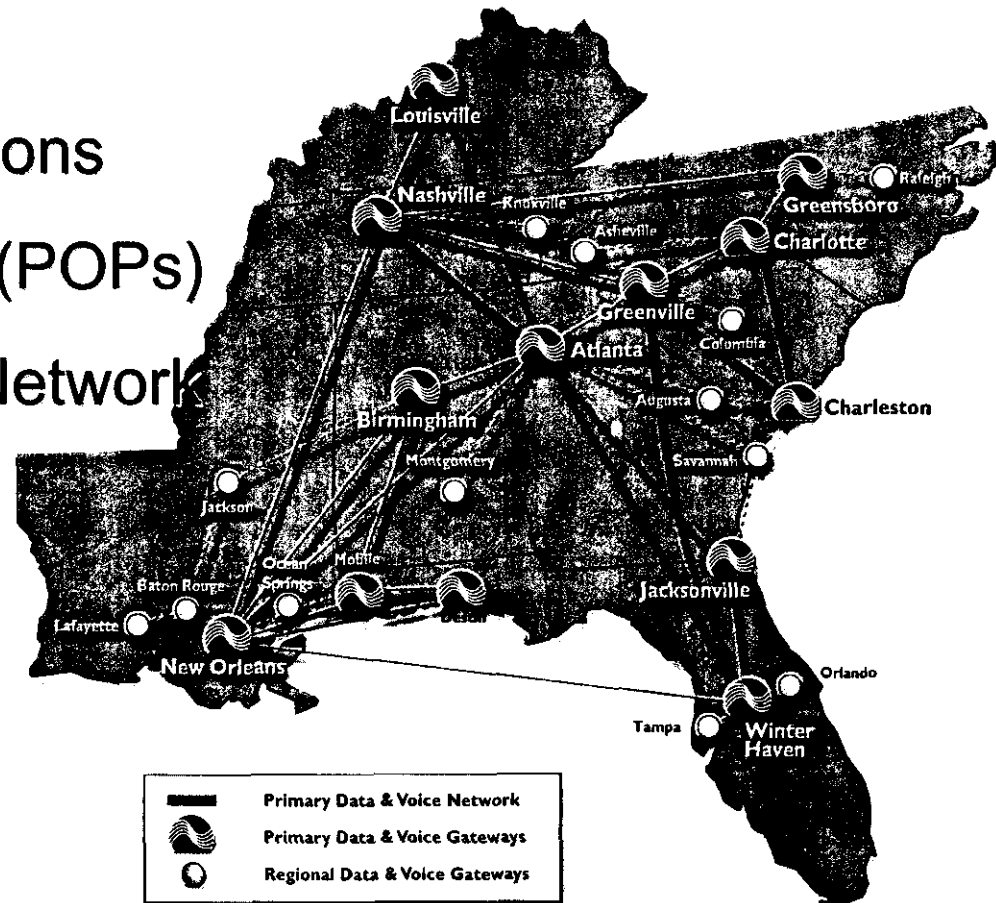
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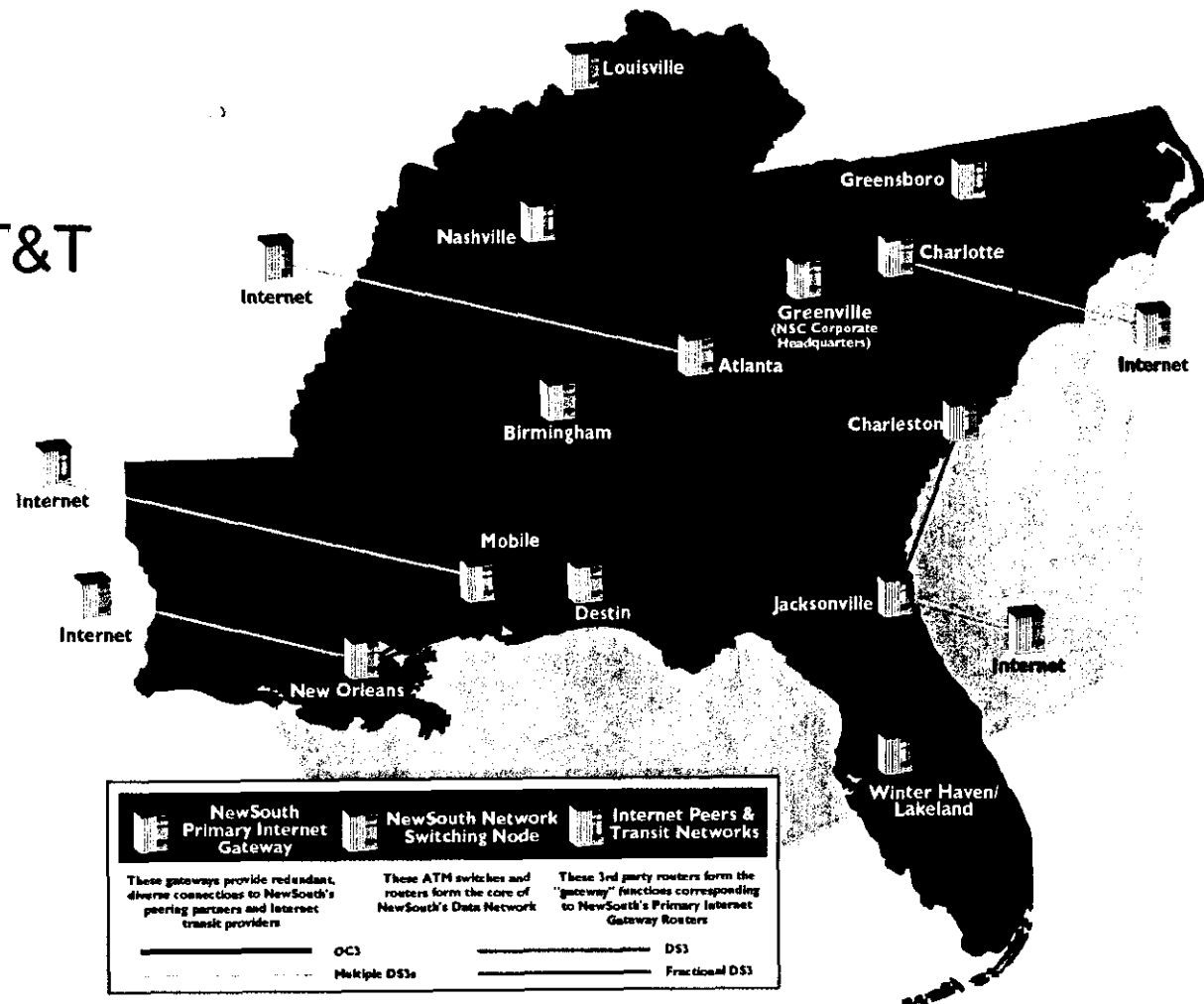
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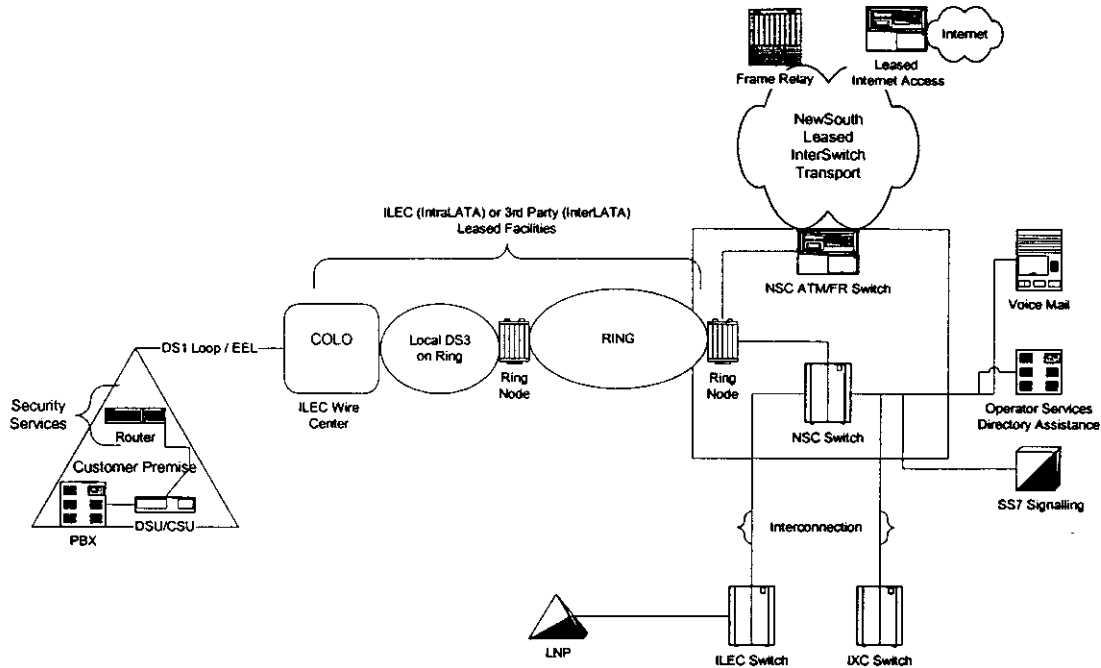
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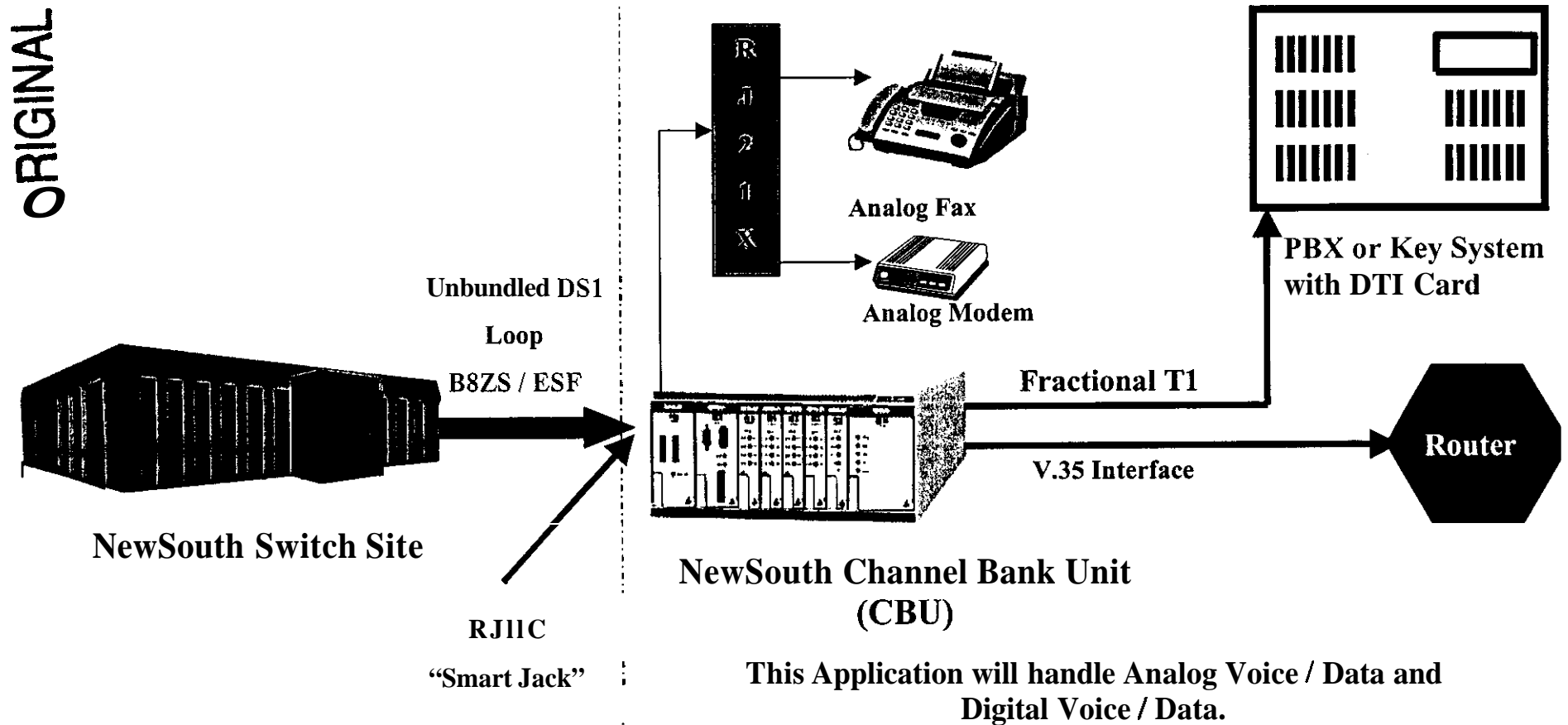
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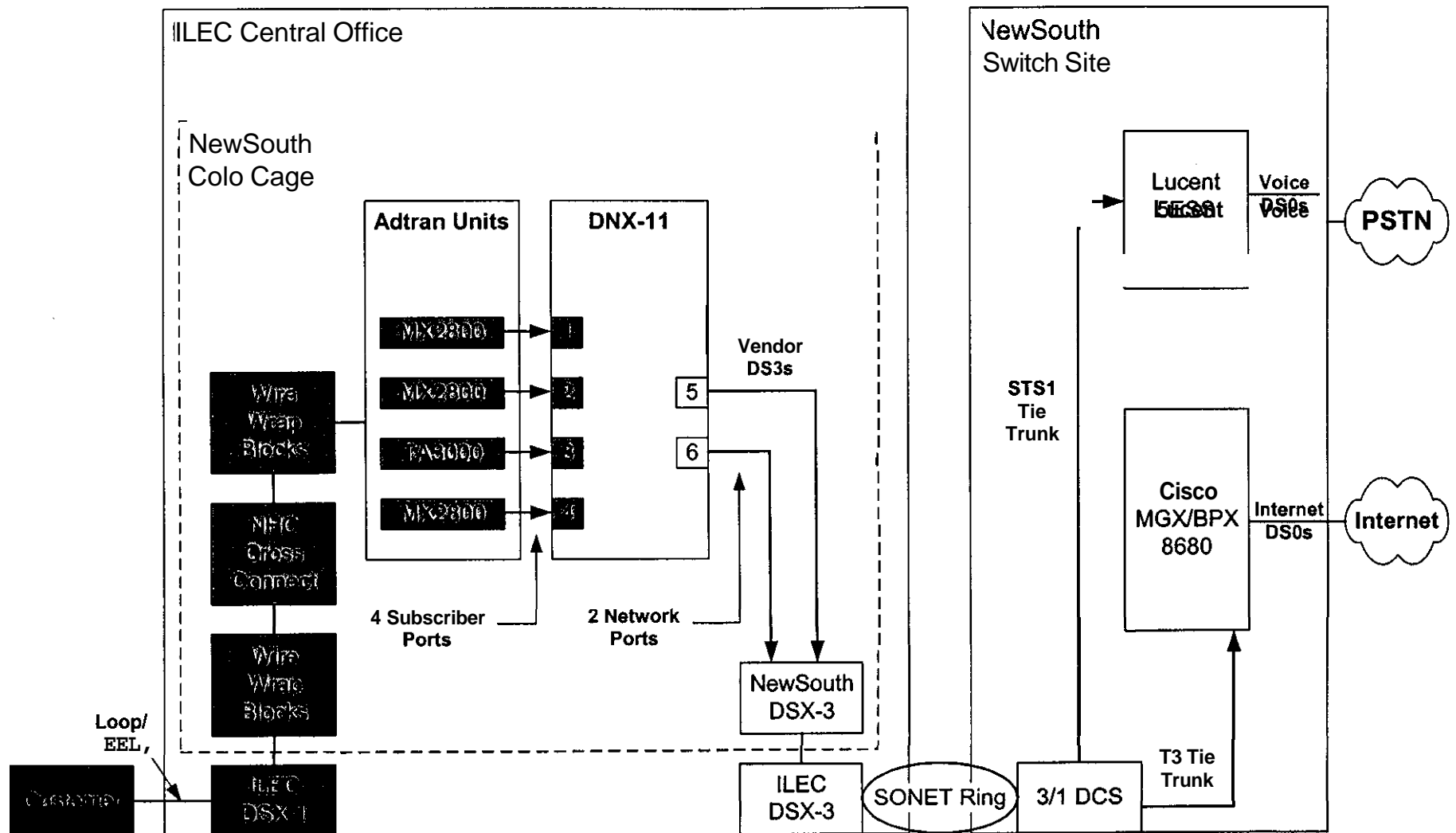
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